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Measures to eliminate international terrorism

Draft comprehensive convention on international terrorism

Working document submitted by India*

The States Parties to this Convention,

Recalling the existing international conventions relating to various aspects of the problem of international terrorism, in particular the Convention on Offences and Certain Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963; the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970; the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971; the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973; the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979; the Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980; the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988; the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988; the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988; the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991; the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997; the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999,

* This is a revised version of the text contained in document A/C.6/51/6.

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Recalling also General Assembly resolution 49/60 of 9 December 1994 and the Declaration on Measures to Eliminate International Terrorism annexed thereto,

Recalling further General Assembly resolution 51/20 of 17 December 1996 and the Declaration to supplement the 1994 Declaration on Measures to Eliminate International Terrorism annexed thereto,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms, which endanger or take innocent lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

Reaffirming their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize friendly relations among States and peoples and threaten the territorial integrity and security of States,

Recognizing that acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the undermining of human rights, fundamental freedoms and the democratic basis of society,

Recognizing also that the financing, planning and inciting of terrorist acts are also contrary to the purposes and principles of the United Nations, and that it is the duty of the States Parties to bring to justice those who have participated in such terrorist acts,

Convinced that the suppression of acts of international terrorism, including those which are committed or supported by States, directly or indirectly, is an essential element in the maintenance of international peace and security and the sovereignty and territorial integrity of States,

Realizing the need for a comprehensive convention on international terrorism,

Have resolved to take effective measures to prevent acts of terrorism and to ensure that perpetrators of terrorist acts do not escape prosecution and punishment by providing for their extradition or prosecution, and to that end have agreed as follows:

Article 1

For the purposes of this Convention:

1. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. "Military forces of a State" means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security, and persons acting in support of those armed forces who are under their formal command, control and responsibility.

3. "Infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water,

sewerage, energy, fuel or communications, and banking services, telecommunications and information networks.

4. "Place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

5. "Public transportation system" means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally, does an act intended to cause:

(a) Death or serious bodily injury to any person; or

(b) Serious damage to a State or government facility, a public transportation system, communication system or infrastructure facility with the intent to cause extensive destruction of such a place, facility or system, or where such destruction results or is likely to result in major economic loss;

when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or abstain from doing any act.

2. Any person also commits an offence if that person attempts to commit an offence or participates as an accomplice in an offence as set forth in paragraph 1.

3. Any person also commits an offence if that person:

(a) Organizes, directs or instigates others to commit an offence as set forth in paragraph 1 or 2; or

(b) Aids, abets, facilitates or counsels the commission of such an offence; or

(c) In any other way contributes to the commission of one or more offences referred to in paragraphs 1, 2 or 3 (a) by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State and no other State has a basis under article 6, paragraph 1, or article 6, paragraph 2, to exercise jurisdiction, except that the provisions of articles 10 to 22 shall, as appropriate, apply in those cases.

Article 4

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of those offences.

Article 5

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

Article 6

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 2 in the following cases:

(a) When the offence is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State or is a person who has his or her habitual residence in its territory;

(c) When the offence is committed wholly or partially outside its territory, if the effects of the conduct or its intended effects constitute or result, within its territory, in the commission of an offence referred to in article 2.

2. A State may also establish its jurisdiction over any such offence when it is committed:

(a) By a stateless person whose habitual residence is in that State; or

(b) With respect to a national of that State; or

(c) Against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(d) In an attempt to compel that State to do or to abstain from doing any act; or

(e) On board a ship or aircraft which is operated by the Government of that State.

3. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 2 in cases where the alleged offender is present in its territory and where it does not extradite such person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.

4. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

5. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 7

States Parties shall take appropriate measures, before granting asylum, for the purpose of ensuring that asylum is not granted to any person in respect of whom there are reasonable grounds indicating his involvement in any offence referred to in article 2.

Article 8

States Parties shall cooperate in the prevention of the offences set forth in article 2, particularly:

(a) By taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission, by whomsoever and in whatever manner, of those offences within or outside their territories, including:

(i) Measures to prohibit in their territories the establishment and operation of installations and training camps for the commission, within or outside their territories, of offences referred to in article 2; and

(ii) Measures to prohibit the illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the commission, within or outside their territories, of offences referred to in article 2;

(b) By exchanging accurate and verified information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of offences as referred to in article 2.

Article 9

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence referred to in article 2. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 10

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence referred to in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3 Any person regarding whom the measures referred to in paragraph 2 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 6, paragraph 1 (b), or 2 (b), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 6, paragraph 1 or 2, and if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 11

1. The State Party in whose territory the alleged offender is found shall, if it does not extradite the person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and that State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

Article 12

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.

Article 13

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

3. States Parties which are not bound by a bilateral treaty or arrangement of mutual legal assistance may, at their discretion, apply the procedure set out in Annex II.

Article 14

None of the offences referred to in article 2 and the acts which constitute an offence within the scope of and as defined in one of the treaties listed in Annex I shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 15

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in Article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 16

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent; and

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

2. For the purposes of this article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he was transferred for the time spent in the custody of the State to which he was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with this article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 17

1. The offences referred to in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request from another State Party with which it has no extradition treaty, the requested State may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences referred to in article 2 as extraditable offences between themselves, subject to the conditions provided for by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 6, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

6. States Parties which, pursuant to paragraph 2 of this article, have agreed to consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2 may consider utilizing the procedures set out in Annex III.

Article 18

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international law, which are governed by that law, are not governed by this Convention, and the activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

Article 19

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 20

The States Parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 21

Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes of the Charter of the United Nations, international humanitarian law and other relevant conventions.

Article 22

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 23

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 24

1. This Convention is open for signature by all States from ... to ... at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 25

1. This Convention shall enter into force thirty days after twenty-two instruments of ratification, acceptance, approval or accession have been deposited with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 26

1. A State may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 27

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on ... 2000.

Annex I*

Exclusion of political offence

1. Convention on Offences and Certain Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963.

2. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970.

3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.

4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.

5. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.

6. Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980.

7. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988.

8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.

9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.

10. Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991.

11. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

12. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999.

* Reference is made to this annex in article 14.

Annex II*

Procedure for mutual legal assistance

1. States Parties shall afford one another, pursuant to this Annex, the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to criminal offences established in accordance with article 3.

2. Mutual legal assistance to be afforded in accordance with this Annex may be requested for any of the following purposes:

(a) Taking evidence or statements from persons;

(b) Effecting service of judicial documents;

(c) Executing searches and seizures;

(d) Examining objects and sites;

(e) Providing information and evidentiary items;

(f) Providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records;

(g) Identifying or tracing proceeds, property, instrumentalities or other things for evidentiary purposes.

3. States Parties may afford one another any other forms of mutual legal assistance allowed by the domestic law of the requested party.

4. Upon request, States Parties shall facilitate or encourage, to the extent consistent with their domestic law and practice, the presence or availability of persons, including persons in custody, who consent to assist in investigations or participate in proceedings.

5. A State shall not decline to render mutual legal assistance under this Annex on the ground of bank secrecy.

6. The provisions of this Annex shall not affect the obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual legal assistance in criminal matters.

7. The States Parties may apply, at their discretion, paragraphs 8 to 19 of this Annex to requests made pursuant to this Annex if they are not otherwise bound by any treaty of mutual legal assistance. If the States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 8 to 19 of this Annex in lieu thereof.

8. States Parties shall designate an authority or, when necessary, authorities, which shall have the responsibility and power to execute requests for mutual legal assistance or to transmit them to the competent authorities for execution. The authority or the authorities designated for this purpose shall be notified to the Secretary-General of the United Nations. Transmission of requests for mutual legal assistance and any communication related thereto shall be effected between the authorities designated by the States Parties; this requirement shall be without

* This annex, which is referred to in article 13, is based on article 7 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

prejudice to the right of a State to require that such requests and communications be addressed to it through the diplomatic channel and, in urgent circumstances, where the States agree, through channels of the International Criminal Police Organization — Interpol, if possible.

9. Requests shall be made in writing in a language acceptable to the requested State. The language or languages acceptable to each State shall be notified to the Secretary-General of the United Nations. In urgent circumstances, and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

10. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

(b) The subject matter and nature of the investigation, prosecution or proceedings to which the request relates, and the name and the functions of the authority, conducting such investigation, prosecution or proceeding;

(c) A summary of the relevant facts, except in respect of requests for the purpose of service of judicial documents;

(d) A description of the assistance sought and details of any particular procedure the requesting party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned;

(f) The purpose for which the evidence, information or action is sought.

11. The requested State may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

12. A request shall be executed in accordance with the domestic law of the requested State and, to the extent not contrary to the domestic law of the requested State and where possible, in accordance with the procedures specified in the request.

13. The requesting State shall not transmit or use information or evidence furnished by the requested State for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested State.

14. The requesting State may require that the requested State keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State.

15. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this Annex;

(b) If the requested State considers that execution of the request is likely to prejudice its sovereignty, security, public order or other essential interests;

(c) If the authorities of the requested State would be prohibited by its domestic law from carrying out the action requested with regard to any similar

offence, had it been subject to investigation, prosecution or proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State relating to mutual legal assistance for the request to be granted.

16. Any assistance under this Annex may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

17. Reasons shall be given for any refusal of mutual legal assistance.

18. The requested State may postpone mutual legal assistance on the ground that it interferes with an ongoing investigation, prosecution or proceeding. In such a case, the requested State shall consult with the requesting State to determine if the assistance can still be given subject to such terms and conditions as the requested State deems necessary.

19. A witness, expert or other person who consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his departure from the territory of the requested State. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days, or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory or, having left it, has returned of his or her own free will.

20. The ordinary costs of executing a request shall be borne by the requested State, unless otherwise agreed by the States concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

21. The States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this Annex.

Annex III*

Extradition procedure

1. The offences referred to in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. The States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. The States Parties that do not make extradition conditional on the existence of a treaty shall recognize the offences referred to in article 2 as extraditable offences between themselves subject to the conditions provided for by the law of the requested State.

3. The offences referred to in article 2 shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the requested States Parties.

4. The States Parties may, at their discretion, apply paragraphs 5 to 18 of this Annex to requests for extradition in respect of offences referred to in article 2 if they are not bound by a treaty of extradition. If these States are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States agree to apply paragraphs 5 to 18 of this Annex in lieu thereof.

5. States Parties shall designate an authority, or when necessary, authorities, which shall have the responsibility and power to execute requests for extradition or to transmit them to the competent authorities for execution. The authority or the authorities designated for this purpose shall be notified to the Secretary-General of the United Nations. Transmission of requests for extradition and any communication related thereto shall be effected between the authorities designated by the States Parties; this requirement shall be without prejudice to the right of a State to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through channels of the International Criminal Police Organization — Interpol, if possible.

6. Requests shall be made in writing in a language acceptable to the requested State. In urgent circumstances, and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

7. A request for extradition shall contain:

(a) The identity of the authority making the request;

(b) As accurate a description as possible of the person sought, together with any other information which would help to establish the identity, location and nationality of the person concerned;

(c) A summary of the facts of the offence for which extradition is requested; and

(d) The text, if any, of the law defining that offence and prescribing the maximum punishment for that offence.

* Reference is made to this annex in article 17.

8. If the request relates to a person already convicted and sentenced, it shall also be accompanied by:

(a) A certificate of the conviction and sentence; and

(b) A statement that the person is not entitled to question the conviction and sentence and showing how much of the sentence has not been carried out.

9. If the requested State considers that the evidence produced or information supplied is not sufficient in order to enable a decision to be taken as to the request, additional evidence or information shall be submitted within such time as the requested State may require.

10. A request shall be executed in accordance with the domestic law of the requested State and, to the extent not contrary to the domestic law of the requested State and where possible, in accordance with the procedures specified in the request.

11. The requesting State shall not transmit or use information or evidence furnished by the requested State for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested State.

12. Any person who is returned to the territory of the requesting State under this Convention shall not be dealt with in the territory of the requesting State for or in respect of any offence committed before he was returned to that territory other than the offence in respect of which he was returned, any lesser offence disclosed by the facts proved for the purpose of securing his return other than an offence in relation to which an order for his return could not lawfully be made, or any other offence in respect of which the requested State may consent to his being dealt with.

13. The provisions of paragraph 12 of this Annex shall not apply to offences committed after the return of a person under this Annex or matters arising in relation to such offences, or when the person having had the opportunity to leave the territory of the requesting State has not done so within sixty days of his final discharge, or has returned to that territory after having left it.

14. If extradition of the same person, whether for the same offence or for different offences, is requested by two States Parties, or by a State and a third State with which the requested State has an extradition arrangement, the requested State shall determine to which State the person shall be extradited.

15. When a request for extradition is granted, the requested State shall, upon request and as far as its law allows, hand over to the requesting State articles which may serve as proof for evidence of the offence. If the articles in question are liable to seizure or confiscation in the territory of the requested State, the latter may, in connection with pending proceedings, temporarily retain them or hand them over on condition that they are returned. This provision shall not prejudice the rights of the requested State or any person other than the person sought. When these rights exist, the articles shall on request be returned to the requested State without charge as soon as possible after the end of the proceedings.

16. Reasons shall be given for any refusal of extradition.

17. If criminal proceedings against the person sought are instituted in the territory of the requested State, or the person is lawfully detained in consequence of criminal proceedings, the decision whether or not to extradite the person may be postponed

until the criminal proceedings have been completed or he or she is no longer detained.

18. The ordinary costs of executing a request shall be borne by the requested State, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

19. The States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this Annex.